

Internal Revenue Service

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Department of the Treasury

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PLR-108288-07

Date:

May 24, 2007

TY:

LEGEND:

Taxpayer:

Year 1:

Individual 1:

Individual 2:

Individual 3:

Country X:

Company A:

Date 1:

Date 2:

Accounting Firm 1:

Accounting Firm 2:

Dear :

This is in response to a letter received by our office on February 23, 2007, submitted on behalf of Taxpayer by its authorized representative, requesting an extension of time under Treas. Reg. § 301.9100-3 to make the election provided by I.R.C. section 953(d) to be treated as a domestic corporation for U.S. tax purposes commencing on the first day of Taxpayer's Year 1 taxable year.

The ruling contained in this letter is predicated upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as part of the audit process.

Taxpayer is a corporation owned by Individual 1, Individual 2, and Individual 3. Taxpayer is a regulated insurance company organized under the laws of Country X. Its principal activity is to support the business of Company A and its affiliated companies through the provision of insurance and reinsurance coverage for certain persons. Taxpayer was incorporated and began its operations on Date 1. A U.S. income tax return was not filed for Year 1.

Upon incorporation, Taxpayer hired Accounting Firm 1, a U.S. CPA firm, to provide advice regarding all-tax related matters with respect to its business. The tax professionals at Accounting Firm 1 were competent to render advice and were aware of all relevant facts, as they related to Taxpayer's business. Throughout the course of Taxpayer's employment of Accounting Firm 1, it did not advise Taxpayer of the applicability of IRC section 953(d), nor of the availability of an election thereunder. Consequently, an election under that section was not filed for Taxpayer's Year 1 taxable year. Taxpayer became aware of the availability of the election under IRS section 953(d) on or about Date 2, when it employed tax professionals from Accounting Firm 2.

Taxpayer has provided an affidavit from Accounting Firm 1 representing that its' tax professionals were competent to render tax advice, were made aware of all relevant facts relating to Taxpayer's business transactions, and they did not advise Taxpayer of the applicability of IRC section 953(d), and of the availability of an election thereunder.

Taxpayer has represented in an affidavit that it exclusively relied on Accounting Firm 1 and Accounting Firm 1 failed to make, or advise Taxpayer to make, the election. Taxpayer also has represented that the grant of relief would not prejudice the interests of the Government because it would not result in a lower tax liability for Taxpayer's taxable years affected by the election.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in Treas. Reg. § 301.9100-3, to make a regulatory election under all subtitles of the I.R.C., except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Treas. Reg. § 301.9100-3(b)(1) provides that except as provided in paragraphs (b)(3)(i) through (iii) of this section, a taxpayer is deemed to have acted reasonably and in good faith if it meets one of the conditions described in Treas. Reg. § 301.9100-3(b)(1)(i) through (v). One such condition is that that taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make the election. Treas. Reg. § 301.9100-3(b)(1)(v). Treas. Reg. § 301-9100-3(b)(3)(i) through (iii) is not applicable to the facts as presented in this request.

Treas. Reg. § 301.9100-3(b)(2) provides that a taxpayer is not considered to have reasonably relied on a qualified tax professional if taxpayer knew or should have known that the professional was not competent to render advice on the regulatory election or was not aware of all relevant facts.

Treas. Reg. § 301.9100-3(c)(1) provides that relief will be granted only when the interests of the Government will not be prejudiced.

Rev. Proc. 2003-47, 2003-2 C.B. 55, 56 provides that the election to be treated as a domestic corporation under IRC section 953(d), to be effective for a taxable year, must be filed by the due date prescribed in I.R.C. section 6072(b) (with extensions) for the United States income tax return that is due if the election becomes effective.

In the present situation, Rev. Proc. 2003-47 fixes the time to make the election under I.R.C. section 953(d). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth under Treas. Reg. § 301.9100-3(a).

Based on the facts and information submitted, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to make the election provided by I.R.C. section 953(d), in accordance with the procedural rules set forth in Rev. Proc. 2003-47,

to be treated as a domestic corporation for U.S. tax purposes commencing on the first day of Taxpayer's Year 1 taxable year.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to make the IRC section 953(d) election. Treas. Reg. § 301.9100-1(a).

The Taxpayer should attach a copy of this letter ruling to its federal income tax return for the relevant year.

This ruling is directed only to the taxpayer who requested it. I.R.C. section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to your authorized representative.

Sincerely,

Phyllis E. Marcus
Branch Chief
International, Branch 2
Office of Chief Counsel